

I. CHARGES 18:2113(a) Robbery of Fed. Savings & Loan (\$5000 &/or 20 Yrs) 2255 mot. Rule 35 mot Pro Se BN-356 Reg. No. 23086-175 Sent. on 2255mot 7-18-80 P. O. Box 1000 Leavenworth, KS 66048 U.S. Attorney or Asst. Hubert H. Bryant, Asst. Phil Frazier Re-apptd 5-19-80 1424 Terrace Dr Tulsa, Ok 939-2445 390 aptd 1-13-81 1-13-81 1-13-81 1-13-81

II. KEY INTERVALS & DATES ARREST 5-3-76 or U.S. Custody Began on Above Charges High Risk Defn. & Date Design'd 12-12-75 Information ☐ Waived ☐ Superseding ☐ Indict/Info ☐ Prosecution Deferred ☐ INDICTMENT ☒ 2 ARRAIGNMENT 5-14-76 Trial Set For 9-7-76 1st Plea 5-14-76 Final Plea 7-7-80 Trial Begun 9-9-76 Trial Ended 9-10-76 TRIAL 9-9-76 9-9-76 9-10-76

III. MAGISTRATE SEARCH WARRANT Issued Return Summons Issued Served Arrest Warrant COMPLAINT OFFENSE (In Complaint) 3/96 Deft address: 406 S Boulder, Ste 431 Tulsa OK 74103 918-582-2209

2255 96-c-205 10th-98-919

III. MAGISTRATE SEARCH WARRANT Issued Return Summons Issued Served Arrest Warrant COMPLAINT OFFENSE (In Complaint) 3/96 Deft address: 406 S Boulder, Ste 431 Tulsa OK 74103 918-582-2209

IV. MAGISTRATE & DISTRICT COURT DOCKET ENTRIES

DATE	PROCEEDINGS	V. Excludable Delay
(a)	(b)	(c) (d)
12-12-75	Record vote of the Grand Jury Concurring, fld. in Open Ct. v	
12-12	Indictment, fld. in Open Court. v	
12-12	Warrant issued. v	2 12-12-75 M
5-7	N. Dakota called this date. Deft. arrested 5-3-76. Order for Warrant of Removal signed 5-6-76. Papers to be mld. this date. (mg)v	
5-7	Return on Warrant for Arrest of Deft, fld. Rec'd warrant 12-23-75 & executed 5-3-76 by arresting Deft. at Fargo, No. Dakota. v	
5-10	Transcript of proceedings rec'd from U.S. Dist. Ct., Dist. of No. Dakota, Southeastern Div., fld. Included were: docket sheet, cpy. of Warrant of Removal, & Mag.'s final commitment. v	
1976	DOCUMENT NO. PROCEEDINGS from No. Dakota	
5-3-76	Initial appearance before U.S. Magistrate, advised of rights, nature of charge and appointed counsel. Defendant refused to sign waiver and Defendant returned to custody of Marshal.	
5-3-76	Attorney appointed.	
5-5-76	Hearing held, certified copy of indictment produced and identification made and removal recommended by Magistrate.	

DATE	USA v. Frazee	IV. PROCEEDINGS (continued)	V. EXCLUDABLE DELAY				For Identifying Periods of Excludable Delay Per 18 U.S.C. 3161(h)
			(a)	(b)	(c)	(d)	
5-13	MO: Case set for arraignment on 5-14-76, at 10:00 A.M.(AEB-J)b nts by phone						A. Examination or hearing for mental or physical incapacity (18 U.S.C. 4244).
5-13	Mag.'s info. sheet, appt. voucher, & financial aff., fld. v						
5-14	Case called for arraignment. Deft. present & represented. Govt. represented. Deft. acknowledges receipt of indictment, is advised of charge and enters plea of NOT GUILTY. Deft. given 10 days to file motions; Govt. 10 days to respond. Case set for jury trial on 6-14-76, at 10:00 A.M. Deft. remanded to USM.(AEB-J)b cps. mld. by c/m w/affids.		2	5-14-76	M	155	B. NARA Examination (28 U.S.C. 2902). C. State or Federal trials on other charges. D. Interlocutory Appeals. E. Hearings on pretrial motions. F. Transfers from other districts (per F.R.C.P. Rules 20, 21 & 40).
5-21	Return on Warrant of Removal on Indictment, fld. Executed by delivering Deft. to USM, Tulsa, OK, on 5-12-76. Warrant from U.S. Dist. Ct., Dist. of N. Dakota, S.E. Div. v						
5-26	Deft's. motion to subpoena witnesses at government expense, filed.s <i>0 to come in</i>						
5-28	Deft's Motion to Dismiss, filed. js 0 to J						G. Defendant Motion is actually under advisement. Period of up to 30 days is excludable per 3161(h)(1)(G).
5-28	Brief in Support of Motion to Dismiss, filed. js						H. Miscellaneous Proceedings: Probation or Parole revocation, Deportation, Extradition.
6-7	Govt's response to deft's mot. to dismiss indictments, filed.k						I. Prosecution deferred by mutual agreement.
6-8-	MO: Case set for hearing on deft's motion to subpoena witnesses as govt. expense on 6-10-76, 10:00 A.M.(AEB-J)b nts by phone & mail						M. Unavailability of defendant or essential witness.
6-9	Deft's motion to order transcript of proceedings at Government's expense, filed.s <i>by to same by atty.</i>		3	6-10-76	E	1	N. Period of mental or physical incompetence of defendant to stand trial.
6-10	Case called for hearing on motions. Deft. present & represented. Govt. represented. Ct. room cleared for ex parte hearing on motion to subpoena witnesses. Ct. allows. Ct. allows the ordering of transcript of proceedings in N.D. Ct. overrules motion to dismiss. Affidavit for continuance filed in open court. Ct. strikes case from dkt. of 6-14-76 & case is re-set for trial on 7-19-76, at 9:30 A.M. Ct. orders study by Dr. O'Carroll. & Deft. co. to make report to Ct. when done. Deft. remanded to USM. This case will be tried first.(AEB-J)b			6-10-76			O. Period of NARA Commitment or Treatment.
			3	6-10-76	A		P. Superseding indictment and/or new charges. R. Defendant awaiting trial of Co-defendant when no severance has been granted.
6-11	MO: Case is set for Jury trial 7-19-76, at 9:30 A.M. (AEB-J) b nts mld						T. Continuances Granted per 3161(h)(8) (i.e. ends of justice or complexity of case outweighs defendants' interests).
6-22	Subpoenae to Dr. Daniel Taub, Dr. Pierre Dwyer and Dr. Chas, D. Ottensmeyer, ret. & filed unexecuted. g						U. Time between guilty plea and plea withdrawal.
6-22	Subpoenae, ret. & filed: served Leslie Carol Elliott, Janet M. Scott, Phyllis Charline Smith & Christine Mitchell on 6-8-76. g						V. Time while moving prisoner from state institutions per transfer/detainer procedure.
6-22	Subpoena, ret. & filed: served Debbie Brown on 6-8-76.g						
7-16	Order Allowing Deft. to subpoena witnesses at Govt's expense, filed.(AEB-J)b cps mld						W. Grand Jury Indictment extended per 3161 (b).
7-19	Deft's Motion for Judicial determination of mental competency, filed. b						Y. Any delay excluded by court order for reasons not included above.
CONTINUED			(a)	(b)	(c)	(d)	
			Interval (per Section II)	Start Date End Date	Ltr. Code	Total Days	

DATE	PROCEEDINGS (continued) (Document No.)	V. EXCLUDABLE DELAY			
		(a)	(b)	(c)	(d)
7-19	Case called for jury trial. Deft presents motion to determine mental competency & requests hearing on motion. Deft. present & represented. Govt. represented. Parties stipulate to Dr. O'Carroll's report; also to report of Dr. Levee, Dr. Kesler. Parties stipulate to transcript from N. D.; Testimony of Dr. Dwyer of Spgfield Med. Ctr., & Dr. Eardley report from Spgfield Md.Ctr. Govt. makes statement as to what witnesses would say if called to testify. Parties stipulate. Statements made to Ct. by Dr. Dwyer & Dr Eardley. Ct. rules Deft. will be sent to Med. Ctr in Sprgfield, Mo. for observation & study before trial as provided under T. 18, USC Sec.4244. (AEB-J)b	3	7-19-76	A	39
7-21	Return on Cr. Subpoenas to Testify, fld. Served Marjorie P. Wheatcraft in Tulsa on 7-1-76. Served Debbie Brown in Tulsa on 7-1-76. Served Wilmer Hann in Tulsa on 7-2-76. Served John Brammer in Tulsa on 7-2-76. Served Leslie Carol Elliott in Tulsa on 7-6-76. Served Phyllis Charline Smith in Tulsa on 7-6-76. Served Arnold Ness in Richmond, CA, on 7-6-76. Served Ordean Lee in Fargo, N.D., on 7-6-76. Unserved as to Deborah Jane Dodd. v (Total Fees: \$24.08) -pldgs. in 75-CR-177-B				
7-21	Return on Cr. Subpoenas to Produce Document or Object, fld. Served Dr. Charles D. Ottensmeyer on 7-7-76 in Mo. Served Dr. Daniel Taub on 7-7-76 in Mo. Served Dr. Pierre Dwyer on 7-7-76 in Mo. Served Floyd Dalton on 7-2-76 in Tulsa. v (Total Fees: \$12.20) -pldgs. in 75-CR-177-B				
7-21	Order, filed, that deft. be committed to U.S. Medical Center, Springfield, Missouri, for examination as to his mental competency and his mental responsibility on or about Oct. 21, 1975; and hearing thereon and trial in cases No. 75-CR-177 and No. 75-CR-178 be continued until reset by the Ct. Further ordered that Medical Center authorities at Springfield, Mo., conduct the examination herein ordered and file a report of their findings to this Ct. within 90 days from this date. Further ordered that Deft. be held by authorities of Med. Center, Springfield, Mo., until said report is made, and deft. thereafter, except as otherwise Ordered by the Ct., be returned to custody of the U.S. Marshal for the ND/Okla., to be held in custody of said U.S. Marshal until further Order of this Ct.s (AEB-J) cps. mld. 2 c/c of Order to USM.				
7-22	Case called for correction of Ct. record on commitment of Deft. for observation & study. Deft. present & represented. Govt. represented. by Bob Ferris for Phil Frazier. Govt. represented. Ct. corrects record. (AEB-J)b				
contd					

UNITED STATES DISTRICT COURT
CRIMINAL DOCKET

DATE 1976	PROCEEDINGS (continued) (Document No.)	V. EXCLUDABLE DELAY			
		(a)	(b)	(c)	(d)
7-22-76	Transcript of proceedings on 7-19-76, filed.s (GRD-USCR)				
8-4-76	Commitment Order of 7-21-76, ret. & filed: deft. Frazee transported to USMC, Springfield, Mo. on 7-27-76. g	3	7-27-76	A	
9-3-76	MO: Case set for jury trial on 9-7-76 at 9:30 a.m. (AEB-J)k ntc by phone				
9-7-	Case called for selection of jury for trial. Deft. present & represented & Govt. represented. Parties announce ready. Jury selected & sworn. Deft's motion to dismiss overruled. Jury to report 9-9-76, at 10:00 A.M. to begin trial.(AEB-J)b	3	9-7-76	A	43
9-9	Return on Subpoena to Testify, fld. Served Leslie Carol Elliott and Wilmer Hann. v (pldgs. in 75-CR-177)				
9-9	Return on Subpoena to Produce Document or Object, fld. Served Floyd Dalton. v (pldg. in 75-CR-177)				
9-10	Jury trial held Sept. 9 & 10. Deft. present & re- presented. Govt. represented. Parties announce ready. Jury selected & sworn on 9-7-76. Rule is invoked. . In camera hearing held on deft's mental comp. to stand trial. Ct. finds Deft. is mentally comp. to stand trial. Ct. rules res judicata does not apply. Deft's motion to dismiss overruled.Hrg. concluded & Jury brought in. Parties make opening statements. Stipul- ation that Deft's sole defense will be alleged insanity filed. Parties present Stipulations as to testimony of: Donald E. Stangel, W. Earl Collins, Gordon E. Oberg, & 1 re: savings & loan assoc. Stipulations read & filed in open court. Pltf. presents case in chief witnesses sworn & testify & rests. Deft's motion for dismissal denied. Deft. presents case in chief, wit. sworn & testify, & Deft. rests. Closing arguments made & Ct. instructs Jury. Deft's renewed motion for dismissal ov erruled. Bailiff sworn & Jury retires to deliberate at 3:55 P.M. on 9-10-76 & returns w/verdict finding Deft. GUILTY at 5:35 P.M. Verdict ordered received, read & filed in open court. Jury polled & discharged. Ct. orders Verdict spread of record. Deft. advised of right to appeal. Sent. set on 9-23-76, at 11:00 A.M. Deft. remanded to USM.(AEB-J)b				
9-10	Trial exhibits, filed. b				
9-9-	Stipulations (5), filed In open court. b				
9-9	Deft's requested instructions, filed in open court.b				
9-10	Two notes from jury, filed in open court. b				
9-10	Verdict, filed in open court finding Deft. GUILTY.b				
9-14	Subpoenae, ret. & filed: served Drs. Pierre Dwyer, Emry Varheley, Jack Eardley, H. B. Fain, Chas. D. Ottensmeyer, Rowland Levy, David R. Kessler, James O'Carroll; Ordean Lee, John Brammer, Phyllis Charline Smith; unserved as to Marjorie P. Wheatcraft and Deborah Jane Dodd. g				
Continued					

DATE	PROCEEDINGS (continued)	V. EXCLUDABLE DELAY			
		(a)	(b)	(c)	(d)
	(Document No.)				
9-23-76	Case called for sentencing. Deft. present & represented. Govt. represented. Deft. & co. asked if they have anything to say before sent. is pronounced: Judgment & Sentence - Marvin Dale Frazee Atty. Gen. - Twenty (20) years. Court recommends Fed. Med. Ctr., Springfield, Mo. Deft. advised of right to appeal. Deft. gives oral notice of appeal. Deft. remanded to USM.(AEB-J)b				
9-23-76	Judgment & Commitment, filed & entered.(AEB-J)b				
9-23	Two c/c of J&C to USM. b				
10-4	Notice of appeal by def., filed. rm				
10-4	Designation of record on appeal, filed. rm				
10-13	J&C, ret. & filed: deft. delivered to USMC, Springfield, Mo. on 10-7-76. g				
11-2	Order, filed, granting defendant-appellant until 1-2-77 to transmit his original record on appeal.s (AEB-J) cps. mld. <i>7-6-77</i>				
12-10	Reporter's transcripts of all proceedings, filed. (G. Dorrough-CR) (two volumes)				
12-14	Original appeal record (orig. & 3 copies, three volumes) transmitted to USCA. rm				
4-20-78	Mandate and opinion of 10th Circuit, filed and spread of record, affirming ct.'s judg. of 9/23/76. (deft. already incarcerated) rm				
4-20-78	Orig. appeal record (3 vols) received from USCA.rm				
5-15	Letter from 10th Circuit, that pet. for writ of cert. was filed w/Supreme Ct. on 4/24/78 and assigned No. 77-6629. rm				
6-7	Letter from 10th Circuit, that pet. for writ of cert. was denied by Supreme Court on 5/30/78.rm				
7-26	MOTION of Deft. to vacate. (79-C-479-D) <i>File to Done</i>				
8-13	ORDER, Respondent is ordered to show cause in response to this order w/in 10 days fro the date hereon why the 2255 mot. should not be granted. (FD-J)ho c/m				
8-23	RESPONSE, of Pltf. to 2255 mot. of deft. w/affid. of Phil Frasier & Hubert Bryant. ho				
9-4	TRAVERSE of deft. rm				
11-9-79	CASE TRANSFERRED TO JAMES O. ELLISON(JCS-CLK)b				
1980					
5-12-80	ORDER, that Movant's 2255 mot. is granted, the Judg- entered is vacated & movant is granted new trial. (JOE-J)b c/m (deft., US atty, Warden, Frazier)				

DATE 1980	PROCEEDINGS (continued) (Document No.)	V. EXCLUDABLE DELAY			
		(a)	(b)	(c)	(d)
5-19-80	MO: Case set for J/T on 6-16-80, 9:30 A.M. (JOE-J)b n/m				
5-21	MOTION of def't. for personal recognizance release.k				
5-21	MO: THE GOV'T is ordered to file a response by 6-2-80 to def't's mot/PR release. (JOE-J)k cps mld				
5-30	MOTION of govt for continuance of trial date.ra (O)				
5-30	RESPONSE of govt to mot/personal recog. release.ra				
6-3-80	ORDER, that case is stricken from J/T on 6-21-80 & RESET for J/T on 7-21-80. (JOE-J)b c/m				
6-9	ORDER denying def't's mot/personal recognizance re- lease & setting bail in the amount of \$50,000.00 cash. (JOE-J)k cps mld				
6-26	MO: Case set for P/T &/OR C/P on 7-7-80, 9:00 A.M. (JOE-J)b n/m				
6-26	-- PETITION for WHCAP re C/P on 7-7-80.k (O)				
6-26	ORDER granting WHCAP re C/P on 7-7-80. (JOE-J)k c/USA Writ issued.k				
7-7-80	Min: CHANGE OF PLEA. Def't. w/draws plea of N/G & enters G/P. Jury waiver; G/P form. Sent. set 7-18-80, 1:30 P.M. (JOE-J)b <i>(Ann. Nat. Rpt)</i>				
7-18-80	SENTENCE: Atty. Gen. - TEN (10) YEARS. Ct. Recommends placement at FCI, Englewood Co. FURTHER ORDERED may become elig. prov. 4205(b)(2). (JOE-J)b				
7-18-80	JUDGMENT & COMMITMENT ENTERED. (JOE-J)b 2 c/c USM, Prob. c/attys & def't.				
11-3	LETTER from def't. to Judge Ellison dated 10-29-80 filed as mot/reduction of sentence under Rule 35 FRCrP.k				
11-7	MO: Gov't is ordered to file a response by 11-12-80 to def't's Rule 35 mot. (JOE-J)k ntc by phone & ltr.				
11-13	RESPONSE of Gov't. to Def't's mot/under Rule 35.b				
11-14	ORDER, entered, that sentence imposed upon def't. on 7-18-80 is reduced to time served & that he be released from custody forthwith. (JOE-J)k cps mld & to Warden, FCI, Leavenworth, KS				
12-3	RETURN on USM service of 11-14-80 Order. Executed by mailing copy to USP Leavenworth, KS.k				
3-2-83	EXHIBITS returned to Govt counsel. hm				

CIVIL DOCKET CONTINUATION SHEET

PLAINTIFF		DEFENDANT	DOCKET NO. _____
USA		MARVIN D FRAZEE	PAGE ____ OF ____ PAGES
DATE	NR.	PROCEEDINGS	
<u>1996</u>			
3/14		MOTION TO VACATE SENTENCE(2255) Civil case # 96-C-205-E.kb	
3/14		MOTION TO PROCEED IFP.(copy to J)kb	
3/21		MO: Pltf directed to resp to def't's mot/vacate, set aside, or correct sentence by person in Fed Custody on or before 4/12/96(JOE-J)b c/m	
4/9/96		Motion (Gov) allowing late filing of response until 4/22/96 (O/J)	
4/15/96		Response (Gov) to 2255 motion (C/J) lc.	
4/11/96		Transcript of Guilty Plea of 7/7/80 before JOE-J (G. Dorrough, CR, 10 pgs.)	
4/16	--	Order allowing late filing of response by Govt to 4/22/96(resp fld 4/15/96) (JOE-J)b c/mov	
4/29/96		Movant's Traverse to Govt's Response (C/J) lc. (Mail-no env)	
5/6/96		Motion (Frazee) for lv to amend 2255 motion (C/J) lc. (Mail-no env)	
5/21/96		Entry of appearance by legal intern, Lee Griffin (lc)(C/J)	
10/7/96		ORDER that Mtn/proceed IFP is granted (JOE-J) lc. cc: all cns1	
10/8/96		ORDER that FPD provide cns1 for Frazee in all further proceedings pertaining to 2255 mtn; dft gr 30 days to supplement his reply to his mtn; Clerk to provide copy of this Order to FPD (JOE-J) lc. cc: all cns1	
10/17/96		Evidentiary Materials (Dft) in support of mtn/vacate (C/J) lc.	
11/7/96		Motion (Dft) for ext of time to supplement brfing (O/J)lc.	
11/13/96		Order that Mtn/ext of time is gr; dft to file suppl brf by 12/9/96 (JOE-J) lc. cc: all cns1	
12/9/96		Supplemental Reply by dft (C/J) lc.	
12/12/96		Correction (Dft) to supplemental reply (C/J)lc.	
12/16/96		Order that this matter is set for evidentiary hrg for 2/7/97 at 1:30 p.m. (JOE-J) lc. cc: all cns1	
1/27/97		Petition (Govt) for writ of HC ad prosequendum, writ issued (O/J)lc.	
1/28/97		Motion (Govt) to reschedule evidentiary hrg (O/J)lc.	
1/29/97		Order that evidentiary hrg is reset for 2/11/97 at 10:00 a.m. (JOE-J) lc. (cc: all cns1)	
1/29/97		Order granting writ of HC directing warden of FCI-Englewood to deliver dft to USM for hrg on 2/11/97 and return dft to aforesaid warden (JOE-J) lc. cc: mvt cns1	
1/30/97		Ex Parte Motion (Dft) for Subpoenas and expenses (O&Sub/J)lc.	
2/4/97		Transcript of sentencing on 7/18/80 before Senior Judge James O. Ellison (G. Dorrough-CR) 5 pgs. lc.	
2/4/97		Order that subpoenas directed to Phil Frazier and BOP records custodian be issued and costs pd by govt (JOE-J)lc. cc: mvt cns1 w/subpoenas	

- Cont -

CIVIL DOCKET CONTINUATION SHEET

PLAINTIFF USA		DEFENDANT MARVIN DALE FRAZEE	DOCKET NO. <u>75-CR-178</u> -E PAGE ____ OF ____ PAGES
DATE	NR.	PROCEEDINGS	
1997			
2/11/97	MIN:	EVID. HRG on deft's 2255 motion. Statements by both parties Deft present. Witnesses testify. Exhs of Deft & Pltf adm(with Judge) Simultaneous bfs due 2/21/97. Ct will enter ruling(JOE-J)b T Copeland-CR	
2/19/97		MEMO OF LAW AFTER EVID. HRG of Govt. b c/J	
2/20/97		Motion (Dft) to submit evidence (C/J)lc.	
2/21		Post-hrg Brief of Deft. b c/J	
2/24/97		Return on writ of HC: from FTC to Tulsa Co Jail on 2/10/97 and from Tulsa Jail to FTC-OKC on 2/21/97 (lc)	
2/27/97		Response (Govt) to post hrg brf and mtn/reopen and submit addt'l evidence (C/J)lc.	
11/7		ORDER that Stephen Greubel apptnd as CJA. JOE c/m pw EOD 11/13	
12/16		ORDER denying 2255. mo/submit addtl evid denied. JOE c/m pw EOD 12/18	
1/20/98		Appt of Steve Greubel,cja for deft.b	
2/13		NOTICE of deft of appeal. (forms, no fees) pw	
2/25		DESIGNATION Of deft of record/appeal. pw	
3/3		APPEAL NUMBER assigning 98-5019 to appeal. pw	
3/12		TRANSCRIPT ORDER FORM by deft for evid hrg 2/11/97, due 4/10/98. c/10th pw	
3/18		CJA 20 Apprvng pymnt to Steve Greubel for \$306.30. JOE c/m pw	
3/30		TRANSCRIPT of evid hrg held 2/11/97 before JOE. T Copeland, CR 132 pgs. pw	
6/15		LETTER FROM USCA advising Crt has not rcvd record on appeal; DC to transmit rec/appeal cp	
6/29/98		MANDATE From 10th Cir granting appellant's mot/dism. appeal.b	